

# Multilingual Ballot Requirements Need Clarification

Supervisor Chris Norby, County of Orange, California

The multilingual ballot sections of the Voting Rights Act perpetuate negative stereotypes, are outdated, vague and violate the spirit of assimilation that holds our country together.

Naturalized voters pass a citizenship test in English. Immigrants study for months to and take special classes to prepare for this test. Should the law presume they are incapable of voting in English?

According to the current interpretation of the VRA, my County of Orange must provide translations in Spanish, Vietnamese, Chinese and Korean.

Multilingualism perpetuates the false stereotype that immigrants are not learning English, either by lack of desire or ability. Today's naturalized citizens have higher education and income levels than in past generations.

Complex ballot propositions are difficult enough to explain in English, let alone other languages. Chinese uses over 20,000 characters, with a simplified system (on the mainland) and a traditional system (in Taiwan and Hong Kong) that is distinctly different. Not surprisingly, most Chinese-American voters in Orange County are well-educated professionals who overwhelmingly in English.

The original Voting Rights Act of 1965 empowered African-Americans to vote, which they had long been denied in the Jim Crow-era South. The law ended blatant race-based political discrimination. It had nothing to do with multilingual voting. It was only in renewals of the Voting Rights Act that multilingual ballot requirements crept in, and those rules have become onerous.

The method for determining which voters are non-English speaking is highly suspect. Census forms ask us whether we speak English "Very Well, Well, Not Well or Not at All." Only those checking "Very Well" are judged capable of voting in English. Speaking English "Well" should be good enough. It was obviously good enough to pass the citizenship test. In addition, all immigrants who have not finished the fifth grade are presumed illiterate. When more than 5 percent or 10,000 people of the voting-age population in a county meet both these criteria, the non-English-ballot requirements take effect.

If these standards are left unchanged, after the 2010 census my county could be required to print ballots in Tagalog, Hindi, Punjabi, Urdu, and Farsi, depending on future immigration patterns

Such confusing rules allow DOJ agents to push us far beyond what the law actually requires. Last year, we were required send 118,856 "outreach" letters offering voters foreign-language ballots. We got hundreds of angry responses back from voters who were insulted at the suggestion they couldn't speak English.

*(Attachment 1)*

All of our voter pamphlets will soon be required to contain all five languages, even those sent to native English speakers. This would cost us over \$20 million per election, incite anti-immigrant feelings and give the voter pamphlet the bulk of a phone book.

DOJ agents have given our Registrar a list of Spanish, Vietnamese, Korean and Chinese surnames. Based on surnames alone, we are to assume that 25% of voters with these names are limited English-speaking.

*(Attachment 2)*

Most of our voters with Spanish, Vietnamese, Korean and Chinese surnames were born in this country, while others took these names upon marriage. The rest all took the citizenship test in English. It is insulting to stereotype people's language ability based on their names!

The multilingual requirements are now creeping into court decisions. A recent recall election in Santa Ana was placed in doubt by the Ninth Circuit Court because the petitions were written only in English. Similar petitions are being challenged all over the state, limiting citizens' right to petition for recall and state and local initiative elections. Yet, the Voting Rights Act has no mandate whatsoever for multilingual petitions.

I urge a total reexamination of the need for multilingual ballots. If they are kept, five simple clarifications that would greatly improve the Voting Rights Act and these have submitted these in writing for your consideration: (*Attachment 3*)

- 1) Accept the naturalized voters' self-description of their own English ability. Speaking English "well" or "very well" should both be considered adequate.
- 2) Non-English voting material should only be provided to those who request them.
- 3) Delete the numerical threshold of 10,000 and raise the 5% threshold to 10%.
- 4) English fluency assumptions must never be based on a voter's surname.
- 5) Any multilingual ballot provisions do not apply to petitions.

Let the values of the Voting Rights Act reflect that of civic assimilation, not static schisms. Let voting be a tool for unity, not division.

ATTACHMENT I

J. Cuti  
14661 Cheshire Pl  
Tustin CA 92780

OF FUNDING PROGRAMS TO TEACH THE ENGLISH LANGUAGE  
LANGUAGE??? JFB

AFF # 00J 425055



Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese \_\_\_\_\_

Korean \_\_\_\_\_

Spanish \_\_\_\_\_

Vietnamese \_\_\_\_\_

  
Signature

10/26/04  
Date

WE ARE IN THE U.S.A.

ENGLISH ONLY!

Benjamin Albertini  
2049 Short St  
Yorba Linda CA 92886

AFF # 7000002971



STOP WASTING TAXPAYER'S FUNDS!

Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

~~Chinese~~ \_\_\_\_\_

~~Korean~~ \_\_\_\_\_

~~Spanish~~ \_\_\_\_\_

~~Vietnamese~~ \_\_\_\_\_

  
Signature

9/29/04  
Date

Margot Wilent  
10211 Birchwood Dr  
Huntington Beach CA 92646

AFF # 00L 115533

Excuse me, but  
why do you spend (waste) tax  
payer's money on this?

Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese \_\_\_\_\_

Korean \_\_\_\_\_

Spanish \_\_\_\_\_

Vietnamese \_\_\_\_\_

States, where ENGLISH is  
the major language. You  
live here, so learn it.

Signature \_\_\_\_\_

Date \_\_\_\_\_

Helen Yun  
7710 E Autry Dr  
Anaheim CA 92808

AFF # 30U 469675

→ ENGLISH  
PLEASE!

Please complete and return this postcard to receive election materials in another language in addition to English.

Please indicate the language you wish to receive your election materials in:

Chinese \_\_\_\_\_

Korean \_\_\_\_\_

Spanish \_\_\_\_\_

Vietnamese \_\_\_\_\_

Signature JYT

Date 09.28.04



# Permanent Absentee Voter (Vote-by-Mail) Application

## Solicitud de Votante Ausente Permanente (Votación por correo)

Please mail this by **October 4th** to become a Permanent Absentee Voter for the November 2004 General Election.  
Envíe esta solicitud por correo para el **4 de octubre**, o antes, para ser Votante Ausente Permanente en las Elecciones Generales de noviembre de 2004.

Please Print (Escriba en letra de molde)

First Name (Nombre) Middle Name (Segundo nombre) Last Name (Apellido) Telephone Number (Número de teléfono)

Residence Address (Dirección donde vive)

Mailing Address (Dirección postal)

City (Ciudad), State (Estado), Zip (Código postal)

City (Ciudad), State (Estado), Zip (Código postal)

This application will not be accepted without the proper signature of the applicant. I hereby apply for Permanent Absentee Voter status. Esta solicitud no se aceptará sin la firma debida del solicitante. Por la presente solicito condición de Votante Ausente Permanente.

Signature (Firma)

Date (Fecha)

OSP 04 84572



# Permanent Absentee Voter (Vote-by-Mail) Application

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Date (Fecha)

OSP 04 84572

We are in the United States if you can't  
speak English you should not be  
allowed to vote

Rene Gonzalez  
423 N Beth St Apt A  
Anaheim CA 92806

AFF # 30T 038941

On Mexico



my tax dollars should not be wasted on stuff  
like this

Please complete and return this postcard to receive election  
materials in another language in addition to English.

Please indicate the language you wish to receive your election  
materials in:

☒ Chinese  
☒ Spanish

☒ Korean  
☒ Vietnamese

Signature

Date

R. Gonzalez

9-22-04



**To:** Chairman Bill Campbell, 3<sup>rd</sup> District  
Vice-Chairman Chris Norby, 4<sup>th</sup> District  
Supervisor Lou Correa, 1<sup>st</sup> District  
Supervisor James Silva, 2<sup>nd</sup> District  
Supervisor Tom Wilson, 5<sup>th</sup> District

**From:** Neal Kelley, Acting Registrar of Voters

**CC:** Tom Mauk, CEO  
Bill Mahoney, Deputy CEO  
Rob Richardson, Assistant to the CEO  
Benjamin de Mayo, County Counsel

**Re:** Department of Justice Developments and Surname Lists

As per a request from Vice Chairman Chris Norby I have attached the surname lists we have been using to conduct an analysis of registered voters in the county. The need to conduct this analysis arose out of recent meetings with the Department of Justice. They have expressed a desire to see additional efforts from Orange County at providing language assistance to voters. These discussions are preliminary and they have not provided official direction as of this time.

When meeting with Department of Justice officials they have indicated a possible move towards the use of surnames when identifying voters likely to need assistance with voting (although as stated previously, there has been no official direction at this time). The assumption, according to these Department of Justice enforcement attorneys, is that 25% of registered voters within an identified surname list are "less than English proficient". Therefore, what they have developed as criteria for providing additional poll workers uses the following information (as outlined in consent decrees with other jurisdictions):

<u>Surname<sup>1</sup></u>	<u>Number of Registered Voters in a Precinct<sup>2</sup></u>	<u>Bilingual Poll Worker</u>
Spanish surnames	100-249	1
	250-499	2
	500 or more	3
Asian surnames	35-79	1
	80-159	2
	160 or more	3

<sup>1</sup> The Spanish surnames are from the U.S. Census Bureau; the Asian surnames are from the Population Research and Policy Review

<sup>2</sup> With identified surname

The reason they give for the higher threshold in Spanish surnames is due to the large number of registered voters with Spanish surnames that are more likely to not speak English as a second language.

Department of Justice officials will be back in contact with me next month after we have had a chance to compare their analysis to our own assessment. These are still the early phases of discussions, however, I feel it is important that we conduct our own examination to provide you with as much information as possible. We should have our own analysis complete in the near future (which will show a comparison of surname requirements versus our current method of outreach).

Respectfully submitted.



korean-namelist.txt

lastname

park  
kim  
choi  
cho  
chung  
kang  
yi  
han  
pak  
hong  
song  
shin  
oh  
yoon  
hwang  
yoo  
choe  
kwon  
ahn  
chun  
yun  
suh  
son  
an  
cha  
min  
nam  
bae  
im  
chon  
rhee  
won  
yim  
kwak  
shim  
jun  
sin  
paik  
seo  
bang  
jang  
hyun  
whang  
huh  
chae  
mun  
no  
sim  
sohn  
o

chinese-namelist.txt

lastname

wong

chen

chan

wang

chang

lin

wu

liu

huang

li

ng

yu

cheng

yee

yang

chu

chin

ho

lam

hsu

lau

fong

leung

chow

cheung

tang

lu

sun

ma

zhang

chiu

lai

tam

lo

tsai

liang

woo

chou

hu

chiang

yuen

chao

kwan

tong

shen

kuo

louie

moy

eng

kwong

## spanish-namelist.txt

lastname	rank
Abeyta	476
Abrego	534
Abreu	416
Acevedo	112
Acosta	60
Acuna	370
Adame	326
Adorno	549
Agosto	597
Aguayo	409
Aguilar	45
Aguilera	243
Aguirre	104
Alanis	598
Alaniz	267
Alarcon	364
Alba	404
Alcala	424
Alcantar	567
Alcaraz	599
Alejandro	550
Aleman	347
Alfaro	207
Alicea	303
Almanza	387
Almaraz	551
Almonte	614
Alonso	238
Alonzo	264
Altamirano	466
Alva	568
Alvarado	56
Alvarez	27
Amador	281
Amaya	265
Anaya	195
Anguiano	477
Angulo	438
Aparicio	535
Apodaca	273
Aponte	236
Aragon	230
Arana	581
Aranda	285
Arce	288
Archuleta	289
Arellano	190
Arenas	525
Arevalo	321
Arguello	569
Arias	166
Armas	615
Armendariz	447
Armenta	417
Armijo	377
Arredondo	212
Arreola	365
Arriaga	397
Arroyo	132
Arteaga	332
Atencio	496
Avalos	250

spanish-namelist.txt

Avila	86
Aviles	245
Ayala	65
Baca	157
Badillo	515
Baez	193
Baeza	456
Bahena	616
Balderas	359
Ballesteros	552
Banda	339
Banuelos	378
Barajas	220
Barela	405
Barragan	526
Barraza	381
Barrera	111
Barreto	497
Barrientos	432
Barrios	200
Batista	418
Becerra	226
Beltran	158
Benavides	208
Benavidez	310
Benitez	172
Bermudez	227
Bernal	168
Berrios	299
Betancourt	290
Blanco	163
Bonilla	153
Borrego	398
Botello	516
Bravo	194
Briones	457
Briseno	433
Brito	333
Bueno	316
Burgos	209
Bustamante	274
Bustos	399
Caballero	268
Caban	439
Cabrera	105
Cadena	440
Caldera	582
Calderon	107
Calvillo	617
Camacho	98
Camarillo	425
Campos	84
Canales	260
Candelaria	366
Cano	167
Cantu	102
Caraballo	317
Carbajal	367
Cardenas	106
Cardona	214
Carmona	252
Carranza	269
Carrasco	210

## spanish-namelist.txt

Carrasquillo	570
Carreon	583
Carrera	517
Carrero	618
Carrillo	77
Carrion	340
Carvajal	478
Casanova	419
Casares	600
Casarez	458
Casas	341
Casillas	271
Castaneda	123
Castellanos	261
Castillo	25
Castro	37
Cavazos	228
Cazares	406
Ceballos	498
Cedillo	571
Ceja	410
Centeno	459
Cepeda	467
Cerda	296
Cervantes	99
Cervantez	479
Chacon	213
Chapa	247
Chavarria	306
Chavez	22
Cintron	348
Cisneros	135
Collado	536
Collazo	318
Colon	53
Colunga	434
Concepcion	426
Contreras	71
Cordero	180
Cordova	142
Cornejo	441
Corona	186
Coronado	221
Corral	353
Corrales	601
Correa	159
Cortes	175
Cortez	64
Cotto	468
Covarrubias	518
Crespo	278
Cruz	17
Cuellar	246
Curriel	572
Davila	129
Deanda	584
Dejesus	131
Delacruz	151
Delafuente	585
Delagarza	371
Delao	602
Delapaz	537
Delarosa	164

spanish-namelist.txt

Delatorre	237
Deleon 81	
Delgadillo	427
Delgado 46	
Delrio 393	
Delvalle	334
Diaz 14	
Dominguez	63
Dominquez	448
Duarte 201	
Duenas 499	
Duran 76	
Echevarria	394
Elizondo	379
Enriquez	173
Escalante	349
Escamilla	275
Escobar 139	
Escobedo	244
Esparza 169	
Espinal 500	
Espino 469	
Espinosa	143
Espinoza	68
Esquibel	460
Esquivel	231
Estevez 619	
Estrada 52	
Fajardo 382	
Farias 428	
Feliciano	205
Fernandez	29
Ferrer 360	
Fierro 395	
Figueroa	59
Flores 13	
Florez 429	
Fonseca 335	
Franco 116	
Frias 461	
Fuentes 97	
Gaitan 573	
Galarza 449	
Galindo 179	
Gallardo	232
Gallegos	73
Galvan 125	
Galvez 307	
Gamboa 354	
Gamez 302	
Gaona 501	
Garay 538	
Garcia 1	
Garibay 527	
Garica 620	
Garrido 430	
Garza 26	
Gastelum	586
Gaytan 462	
Gil 262	
Giron 411	
Godinez 388	
Godoy 621	

spanish-namelist.txt

Gomez	15	
Gonzales		12
Gonzalez		6
Gracia	389	
Granado	519	
Granados		350
Griego	435	
Grijalva		470
Guajardo		308
Guardado		587
Guerra	85	
Guerrero		54
Guevara	211	
Guillen	311	
Gurule	539	
Gutierrez		24
Guzman	43	
Haro	471	
Henriquez		480
Heredia	336	
Hernadez		528
Hernandes		520
Hernandez		5
Herrera	33	
Hidalgo	282	
Hinojosa		229
Holguin	372	
Huerta	188	
Hurtado	253	
Ibarra	114	
Iglesias		489
Irizarry		233
Jaime	442	
Jaimes	588	
Jaquez	553	
Jaramillo		171
Jasso	472	
Jimenez	35	
Jiminez	490	
Juarez	78	
Jurado	603	
Laboy	540	
Lara	94	
Laureano		604
Leal	176	
Lebron	400	
Ledesma	300	
Leiva	622	
Lemus	297	
Leon	95	
Lerma	322	
Leyva	258	
Limon	383	
Linares	368	
Lira	401	
Llamas	554	
Loera	412	
Lomeli	555	
Longoria		192
Lopez	4	
Lovato	502	
Loya	420	
Lozada	541	

spanish-namelist.txt

Lozano	122	
Lucero	124	
Lucio	481	
Luevano	491	
Lugo	137	
Lujan	215	
Luna	66	
Macias	115	
Madera	542	
Madrid	185	
Madrigal		270
Maestas	304	
Magana	248	
Malave	521	
Maldonado		51
Manzanares		623
Mares	402	
Marin	177	
Marquez	61	
Marrero	178	
Marroquin		312
Martinez		2
Mascarenas		589
Mata	138	
Mateo	503	
Matias	529	
Matos	202	
Maya	556	
Mayorga	605	
Medina	30	
Medrano	191	
Mejia	93	
Melendez		109
Melgar	624	
Mena	323	
Menchaca		482
Mendez	39	
Mendoza	32	
Menendez		337
Meraz	543	
Mercado	103	
Merino	557	
Mesa	342	
Meza	156	
Miramontes		606
Miranda	79	
Mireles	298	
Mojica	343	
Molina	67	
Mondragon		450
Monroy	544	
Montalvo		254
Montanez		286
Montano	203	
Montemayor		504
Montenegro		505
Montero	351	
Montes	154	
Montez	451	
Montoya	70	
Mora	119	
Morales	18	
Moreno	31	



spanish-namelist.txt

Mota	483	
Moya	279	
Munguia	506	
Muniz	160	
Munoz	40	
Murillo	183	
Muro	625	
Najera	319	
Naranjo	473	
Narvaez	474	
Nava	198	
Navarrete		380
Navarro	75	
Nazario	545	
Negrete	324	
Negron	216	
Nevarez	369	
Nieto	251	
Nieves	120	
Nino	626	
Noriega	344	
Nunez	58	
Ocampo	355	
Ocasio	361	
Ochoa	91	
Ojeda	255	
Olivares		272
Olivarez		305
Olivas	291	
Olivera	558	
Olivo	475	
Olmos	507	
Olvera	276	
Ontiveros		301
Oquendo	530	
Ordonez	421	
Orellana		443
Ornelas	283	
Orosco	452	
Orozco	147	
Orta	436	
Ortega	50	
Ortiz	16	
Osorio	338	
Otero	174	
Ozuna	559	
Pabon	590	
Pacheco	92	
Padilla	57	
Padron	508	
Paez	607	
Pagan	148	
Palacios		181
Palomino		627
Palomo	591	
Pantoja	356	
Paredes	357	
Parra	217	
Partida	453	
Patino	345	
Paz	327	
Pedraza	592	
Pedroza	422	

spanish-namelist.txt

Pelayo	546	
Pena	42	
Perales	384	
Peralta	263	
Perea	390	
Peres	560	
Perez	7	
Pichardo		608
Pina	196	
Pineda	161	
Pizarro	628	
Polanco	320	
Ponce	150	
Porras	547	
Portillo		259
Posada	593	
Prado	294	
Preciado		531
Prieto	313	
Puente	358	
Puga	609	
Pulido	444	
Quesada	484	
Quezada	292	
Quinones		146
Quinonez		413
Quintana		140
Quintanilla		277
Quintero		162
Quiroz	218	
Rael	463	
Ramirez	10	
Ramon	407	
Ramos	20	
Rangel	133	
Rascon	610	
Raya	561	
Razo	492	
Regalado		403
Rendon	287	
Renteria		256
Resendez		485
Reyes	19	
Reyna	149	
Reynoso	325	
Rico	295	
Rincon	522	
Riojas	574	
Rios	48	
Rivas	88	
Rivera	9	
Rivero	373	
Robledo	509	
Robles	82	
Rocha	121	
Rodarte	493	
Rodriguez		629
Rodriguez		3
Rodriquez		38
Rojas	74	
Rojo	510	
Roldan	391	
Rolon	611	

spanish-namelist.txt

Romero	28	
Romo	222	
Roque	486	
Rosado	144	
Rosales	113	
Rosario	126	
Rosas	152	
Roybal	408	
Rubio	128	
Ruelas	630	
Ruiz	21	
Ruvalcaba		575
Saavedra		314
Saenz	199	
Saiz	487	
Salas	100	
Salazar	44	
Salcedo	532	
Salcido	309	
Saldana	219	
Saldivar		445
Salgado	184	
Salinas	80	
Samaniego		511
Sanabria		454
Sanches	431	
Sanchez	8	
Sandoval		55
Santacruz		631
Santana	117	
Santiago		41
Santillan		562
Sarabia	632	
Sauceda	512	
Saucedo	239	
Sedillo	594	
Segovia	523	
Segura	241	
Sepulveda		280
Serna	249	
Serrano	89	
Serrato	612	
Sevilla	613	
Sierra	187	
Sisneros		563
Solano	315	
Solis	90	
Soliz	385	
Solorio	446	
Solorzano		564
Soria	437	
Sosa	118	
Sotelo	328	
Soto	34	
Suarez	101	
Tafoya	455	
Tamayo	414	
Tamez	595	
Tapia	141	
Tejada	513	
Tejeda	464	
Tellez	352	
Tello	565	

spanish-namelist.txt

Teran	633	
Terrazas		533
Tijerina		362
Tirado	329	
Toledo	363	
Toro	346	
Torres	11	
Torrez	242	
Tovar	204	
Trejo	206	
Trevino	72	
Trujillo		69
Ulibarri		566
Ulloa	494	
Urbina	374	
Urena	634	
Urias	576	
Uribe	284	
Urrutia	635	
Vaca	636	
Valadez	330	
Valdes	240	
Valdez	47	
Valdivia		524
Valencia		127
Valentin		257
Valenzuela		110
Valladares		577
Valle	235	
Vallejo	386	
Valles	396	
Valverde		548
Vanegas	637	
Varela	223	
Vargas	36	
Vasquez	23	
Vazquez	62	
Vega	49	
Vela	182	
Velasco	293	
Velasquez		96
Velazquez		130
Velez	83	
Veliz	578	
Venegas	375	
Vera	197	
Verdugo	579	
Verduzco		638
Vergara	495	
Viera	415	
Vigil	136	
Villa	134	
Villagomez		465
Villalobos		225
Villalpando		596
Villanueva		145
Villareal		423
Villarreal		87
Villasenor		392
Villegas		165
Yanez	266	
Ybarra	189	
Zambrano		488

spanish-namelist.txt

Zamora	108	
Zamudio	639	
Zapata	224	
Zaragoza		376
Zarate	331	
Zavala	170	
Zayas	514	
Zelaya	580	
Zepeda	234	
Zuniga	155	
rodriguez		999
ramires	999	
gonzales		999
gonsales		999
de la torre		999

viet-namelist.txt

lastname

Nguyen

Tran

Le

Pham

Huynh

Vu

Phan

Truong

Hoang

Ngo

Dang

Do

Bui

Vo

Ly

Duong

Luong

Dinh

Trinh

Luu

Doan

Dao

Thai

Mai

Van

Cao

Vuong

Phung

Quach

Ta

Diep

Ton

La

Thach

Thi

Thanh

Dam

Vong

Trieu

Buu

Phu

Vinh

Quang

Tieu

Hoa

Trang

Giang

Luc

Banh

Nghiem

## 42 USCS § 1973aa-1a

## § 1973aa-1a. Bilingual election requirements

(a) Congressional findings and declaration of policy. The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution [USCS Constitution, Amendments 14, 15], it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) Bilingual voting materials requirement.

(1) Generally. Before August 6, 2007, no covered State or political subdivision shall provide voting materials only in the English language.

(2) Covered States and political subdivisions.

(A) Generally. A State or political subdivision is a covered State or political subdivision for the purposes of this subsection if the Director of the Census determines, based on census data, that--

(i) (I) more than ~~5~~ 10 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient;

~~----- (II) more than 10,000 of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient; or~~

(III) in the case of a political subdivision that contains all or any part of an Indian reservation, more than ~~5~~ 10 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient; and

(ii) the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

(B) Exception. The prohibitions of this subsection do not apply in any political subdivision that has less than ~~5~~ 10 percent voting age limited-English proficient citizens of each language minority which comprises over ~~5~~ 10 percent of the statewide limited-English proficient population of voting age citizens, unless the political subdivision is a covered political subdivision independently from its State.

(3) Definitions. As used in this section--

(A) the term "voting materials" means registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots;

(B) the term "limited-English proficient" means unable to speak or understand

English adequately enough to participate in the electoral process as derived from respondents to the most recent United States Census reporting that they speak English "Not well" or "Not at all";

(C) the term "Indian reservation" means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census;

(D) the term "citizens" means citizens of the United States; and

(E) the term "illiteracy" means the failure to complete the 5th primary grade.

(4) Special rule. The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

(c) Requirement of voting notices, forms, instructions, assistance, or other materials and ballots in minority language. Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, but not including initiative, referendum or recall petitions, it shall provide them in the language of the applicable minority group as well as in the English language;; except provided, that such materials and information shall not be required to be provided based on surname alone and shall be provided only on request by limited English proficient voters. ~~That w~~Where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives and American Indians, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Action for declaratory judgment permitting English-only materials. Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

(e) Definitions. For purposes of this section, the term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.